

AGENDA MEMO

CITY COUNCIL MEETING DATE: OCTOBER 4, 2006

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: ABEYANCE - VAR-15081 - APPLICANT/OWNER: JAQUES JOSEPH LAMOTHE AND LINDA MARIE LAMOTHE

THIS ITEM WAS HELD IN ABEYANCE FROM THE SEPTEMBER 20, 2006 CITY COUNCIL MEETING AT THE REQUEST OF THE APPLICANT.

**** CONDITIONS ****

The Planning Commission (6-0 vote) and staff recommend DENIAL.

Planning and Development

1. This approval shall be void one year from the date of final approval, unless a business license has been issued to conduct the activity, if required, or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.
2. This approval shall be void two years from the date of final approval, unless a certificate of occupancy has been issued or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

**** STAFF REPORT ****

APPLICATION REQUEST

This is an appeal filed by the applicant from a denial by the Planning Commission on a request for a Variance to allow a 2.75 foot side yard setback where 10 feet is the minimum setback required on 0.46 acres at 1830 Rosemere Court.

EXECUTIVE SUMMARY

The applicant is adding a new garage and a second level expansion of their existing house. The garage and second level expansion of the existing house encroaches into the 10 foot side yard setback by seven and half feet. The hardship is self-imposed and staff cannot make a finding for approval.

BACKGROUND INFORMATION

A) Related Actions

- 10/22/1992 The City Council withdrew without prejudice the request for reclassification of property located on the Westside of Tenaya Way between Oakey and El Parque Avenue from RE (Residence Estates) to C-V (Civic).
- 10/26/1998 The City Council approved a General Plan Amendment from R (Rural Density Residential) to DR (Desert Rural Density Residential) on properties bounded by Holmby Channel, Via Olivero Avenue, Rainbow Boulevard, and Durango Drive
- 08/24/06 The Planning Commission voted 6-0 to recommend DENIAL (PC Agenda Item #56/jm).

B) Pre-Application Meeting

- 05/31/06 The elements of a Variance application were discussed at the pre-application meeting.

C) Neighborhood Meetings

No neighborhood meeting was required with this application, nor was one held.

DETAILS OF APPLICATION REQUEST

A) Site Area

Net Acres: 0.46 acres

B) Existing Land Use

Subject Property: Single Family Residential
North: Single Family Residential
South: Single Family Residential
East: Single Family Residential
West: Single Family Residential

C) Planned Land Use

Subject Property: DR (Desert Rural Density Residential)
North: DR (Desert Rural Density Residential)
South: DR (Desert Rural Density Residential)
East: DR (Desert Rural Density Residential)
West: DR (Desert Rural Density Residential)

D) Existing Zoning

Subject Property: R-E (Residence Estates)
North: RPD-2 (Residential Planned Development – 2 Units Per Acre)
South: R-E (Residence Estates)
East: R-E (Residence Estates)
West: R-E (Residence Estates)

E) General Plan Compliance

The subject site is designated DR (Desert Rural Density Residential) on the Southwest Sector Map of the Master Plan. The predominant residential lifestyle is single-family homes on large lots. The existing R-E (Residence Estates) zoning district is consistent with the Master Plan.

<i>SPECIAL DISTRICTS/ZONES</i>	Yes	No
Special Area Plan		X
Special Overlay District		X
Trails		X
Rural Preservation Overlay District		X
County/North Las Vegas/HOA Notification		X
Development Impact Notification Assessment		X
Project of Regional Significance		X

A) Zoning Code Compliance

A1) Development Standards

Pursuant to Title 19.08, the following Development Standards apply to the subject proposal:

Standards	Required	Requested	Compliance
Min. Lot Size	20,000 Feet	20,037	Y
Min. Lot Width	100 Feet	160	Y
Min. Setbacks			
• Front	50 Feet	50 Feet	Y
• Side	10 Feet	2.75 Feet	N
• Corner	15 Feet	NA	Y
• Rear	35 Feet	63 Feet	Y
Max. Lot Coverage	NA	NA	Y
Max. Building Height	2 Stories / 35 Feet	20 Feet	Y

The proposed project is in compliance for the front and rear setback. However, the project provides for a side setback of 2.75 feet where 10 feet are required on the north side-yard setback. In addition, the east side-yard setback provides a 5 foot setback where 10 feet are required. The subject deviation for the north side-yard setback is 72.5% and the subject deviation for the east side-yard setback is 50%.

B) General Analysis and Discussion

The applicant is adding a new garage and a second level expansion of their existing house. The garage and second level expansion of the existing house encroaches into the 10 foot side yard setback by seven and half feet. The hardship is self-imposed and staff cannot make a finding for approval.

FINDINGS

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by proposing to overbuild the site. A smaller building design would allow conformance to Title 19 parking requirements. In view of the absence of any hardships imposed by the site's physical characteristics, it is concluded that the applicant's hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 5

ASSEMBLY DISTRICT 2

SENATE DISTRICT 8

NOTICES MAILED 147 by City Clerk

APPROVALS 3

PROTESTS 1